

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

|                        |   |                  |
|------------------------|---|------------------|
| JAMES DELLINGER,       | ) |                  |
|                        | ) |                  |
| Petitioner,            | ) |                  |
|                        | ) |                  |
| v.                     | ) | No.: 3:09-CV-404 |
|                        | ) | (VARLAN/SHIRLEY) |
| ROLAND COLSON, Warden, | ) |                  |
|                        | ) |                  |
| Respondent.            | ) |                  |

**ORDER**

For the reasons expressed in the Court's memorandum opinion filed contemporaneously herewith, it is hereby **ORDERED** that this matter is **REFERRED** to Magistrate Judge C. Clifford Shirley, Jr., for an evidentiary hearing. The following issues shall be the subject of the evidentiary hearing:

1. whether an attorney-client relationship existed between Petitioner and Ms. Brockenborough, Mr. Dawson, and the Post Conviction Defender's Office ("PCDO") in relation to the filing of Petitioner's federal habeas petition in his Sevier County case;
2. whether Ms. Brockenborough's mental illness and/or the alleged abandonment by the attorneys and the PCDO constitute an extraordinary circumstance under the standard espoused in *Holland v. Florida*, 130 S. Ct. 2549 (2010);
3. whether Petitioner diligently pursued his federal habeas remedies in his Sevier County case; and

4. any other matter Magistrate Judge Shirley deems appropriate.

Additionally, the Court **DENIES** relief on Petitioner's claim that his mental shortcomings constitute an extraordinary circumstance entitling him to equitable tolling of the one-year statute of limitation. The Court will enter a Judgment Order and include a ruling on a Certificate of Appealability after the resolution of the issues to be considered in the evidentiary hearing.

**IT IS SO ORDERED.**

s/ Thomas A. Varlan

CHIEF UNITED STATES DISTRICT JUDGE